

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 77 of 1999

in

SPECIAL CIVIL APPLICATION No 3418 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CONTINENTAL TEXTILES MILLS LTD

Versus

SONAJI KALAJI

Appearance:

MR ARUN H MEHTA for Appellant
MR MUKUL SINHA for Respondent No. 1
MR DS VASAVADA for Respondent No. 2
GOVERNMENT PLEADER for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE A.L.DAVE

Date of decision: 08/03/99

ORAL JUDGMENT (per. Patel, J)

This Appeal is preferred against the order passed by the learned Single Judge in Special Civil Application No.3418/98. It appears that the Recovery Certificate under the provisions contained in Bombay Land Revenue Code was issued and the Collector was required to take necessary steps in view of the Certificate. Mr A H Mehta, learned Advocate appearing for the appellant submitted that on account of the fraud committed by others, the Court ought not to have passed the order and the Court ought to have given a direction to see that all workmen engaged by the Company are paid their wages. He further submitted that the learned Single Judge ought to have taken into consideration the claim of others such as statutory Corporation or statutory Bodies. On behalf of the respondents, it is pointed out that on 23.12.1998, Mamlatdar, Alien Recovery, Ahmedabad City has issued notice to the Company. It is submitted that it refers to all the workmen who are covered by the Recovery Application No.2742/95 and 1476/97 dated 1.12.1998. The original petition was preferred by a group of workmen. However, the Certificate which is shown to us clearly indicates that the workmen, who have preferred applications for issuance of certificate by two different applications referred to hereinabove, are required to get benefit of the Certificate. In short, all the workmen should get benefit of the Recovery. Mr Mehta, learned Advocate further pointed out that the Court has given direction that the Collector should take appropriate steps to see that there is recovery and payment of all the dues under the Certificate to the petitioner within 8 week. He submitted that on reading of this part of the order, the petitioner who approach the Court will get benefit and not others. In view of what we have stated hereinabove, all the workmen will get the benefit. So far as time limit is concerned, it is required to be noted that the recovery may not be made within 8 weeks.

2. Looking to the nature of the property, when the Collector is exercising his powers, he may require to give public notice and he may require to hear objections as well. In view of this, there cannot be any time bound programme. Therefore, the direction would be that the benefit of the Certificate will be given to all the workmen and the Collector shall do the exercise as early as possible. It goes without saying that the Collector, while proceeding in the matter, shall strictly follow the procedure laid down under the Bombay Land Revenue Code. The order passed by the learned Single Judge stands modified accordingly.

3. In view of the above terms, this Appeal sands partly allowed. The Certificate and the affidavits be taken on record.

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msp.